

ORIGINAL

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10:00 O'Clock A M

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF YAVAPAI JUL 8 2010

JEANNE HICKS, Clerk
BY Deputy

THE STATE OF ARIZONA,)

Plaintiff,)

vs.)

No. CR 2008-1339

STEVEN CARROLL DEMOCKER,)

Defendant.)

BEFORE: THE HONORABLE THOMAS B. LINDBERG
JUDGE OF THE SUPERIOR COURT
DIVISION SIX
YAVAPAI COUNTY, ARIZONA

PRESCOTT, ARIZONA
WEDNESDAY, JUNE 9, 2010
9:08 A.M. - 12:06 P.M.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

JURY TRIAL

ROXANNE E. TARN, CR
Certified Court Reporter
Certificate No. 50808

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MATTHEW RAYMOND TAINTOR

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APPEARANCES

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On Behalf of the State:

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Mr. Joseph Butner and Mr. Jeffrey Paupore
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On Behalf of the Defendant:

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1 (Whereupon, the jury enters the courtroom.)

2 THE COURT: The record reflects the presence
3 of the jury, the defendant, defense counsel, prosecutors.

4 Good morning, ladies and gentlemen.

5 Mr. Butner, you may call your next
6 witness.

7 MR. BUTNER: Thank you, Your Honor.

8 I call John Kennedy to the stand, please.

9 THE CLERK: You do solemnly swear or affirm
10 under the penalty of perjury that the testimony you are about
11 to give will be the truth, the whole truth, and nothing but
12 the truth, so help you God?

13 THE WITNESS: Yes.

14 THE COURT: You may proceed.

15 MR. BUTNER: Thank you, Your Honor.

16 JOHN NOLAN KENNEDY,
17 called as a witness, having been duly sworn, testified as
18 follows:

19 DIRECT EXAMINATION

20 BY MR. BUTNER:

21 Q. Would you please state your name for the record.

22 A. John Nolan Kennedy.

23 Q. And where do you reside, Mr. Kennedy?

24 A. In Old Hickory, Tennessee.

25 Q. And how long have you lived in Tennessee?

1 A. 58 years.

2 Q. Your whole life?

3 A. Yes.

4 Q. You are acquainted with Ruth Kennedy?

5 A. Yes. That is my mother.

6 Q. And you were acquainted with Carol Kennedy?

7 A. Yes, my sister.

8 Q. And you are acquainted with Steven DeMocker?

9 A. Yes.

10 Q. How so?

11 A. Carol's husband, ex-husband.

12 Q. Going back to the evening of July the 2nd of the
13 year 2008, do you remember that particular evening?

14 A. Yes.

15 Q. Where were you located on July the 2nd of 2008?

16 A. At my home, 4748 Cascade Drive, Old Hickory,
17 Tennessee.

18 Q. Were you home that evening?

19 A. Yes.

20 Q. Did you have some kind of contact with your mother
21 that evening?

22 A. Yes.

23 Q. Would you tell us what that contact was, the first
24 contact?

25 A. Mom called, told me that she had been speaking

1 with Carol, and that the conversation was abruptly
2 terminated, and she was worried that something might be wrong
3 out here.

4 Q. Do you recall approximately what time you heard
5 from your mother?

6 A. I'd say around 10:15, Nashville.

7 Q. So when you got this call from your mother, then
8 what did you do?

9 A. I tried calling Carol's phone numbers, both her
10 cell phone and her house phone and with no answer, and --

11 Q. When you called Carol's house phone, what did you
12 get? And when we say "house phone," we are talking about
13 your landline; right?

14 A. Yes, uh-huh.

15 Q. What response did you get?

16 A. I don't recall getting anything but ringing.

17 Q. No recorder or voice mail or anything like that
18 came on?

19 A. No. I don't remember that.

20 Q. It just started ringing?

21 A. Right.

22 Q. And did you call her cell phone?

23 A. Yes.

24 Q. What did you get when you called the cell phone,
25 if you can recall?

1 A. Just ringing.

2 Q. So after calling Carol's landline and her cell
3 phone, then what did you do?

4 A. I started -- as being concerned, so I started
5 attempting to get ahold of Steve.

6 Q. Steve DeMocker?

7 A. Right. Steve DeMocker.

8 Q. And did you get ahold of him?

9 A. Eventually.

10 Q. How many times did you call him, if you can
11 recall?

12 A. I don't recall. Several.

13 Q. More than one?

14 A. Oh, yes.

15 Q. Several?

16 A. Several.

17 Q. How long were you calling Steve trying to reach
18 him, approximately?

19 A. About three hours.

20 Q. And what were you calling him on? What phone were
21 you calling him on?

22 A. My landline at my home.

23 Q. Do you know what phone of his you were calling?

24 A. I was calling his cell phone, and I think I had,
25 you know, a landline number, too.

1 Q. Did you call the landline and leave a message?

2 A. Yes.

3 Q. And now, I didn't get that set up. We might want
4 to play that for the jury in just a little bit.

5 So you left a message on his landline
6 recorder?

7 A. Uh-huh.

8 Q. Is that yes?

9 A. Yes, sir.

10 Q. And basically what was it that you said in the
11 message?

12 A. That we thought there might be some problem out at
13 Carol's house, and would he please call me so I could
14 possibly get him to go check on her.

15 Q. That was what was on your mind?

16 A. Right.

17 Q. So when you finally got him on his cell phone,
18 what did you say to him?

19 A. I told him about the conversation, that we thought
20 there was something going on, possibly bad, at Carol's. I
21 asked him if he would go out and check on her.

22 Q. And what did he say?

23 A. He told me he had just stepped out of the shower,
24 was standing there wet, dripping. He had just come in from
25 out working out on his mountain bike, and that, no, he would

1 not go out to Carol's house. He wasn't going to infringe on
2 her privacy, and he absolutely would not go check on her.

3 Q. Did you ask him to go out and check on her more
4 than once in this conversation?

5 A. Yes, I did.

6 Q. And what was his response each time?

7 A. Each time it was, no, I won't go. I was pleading
8 with him to go.

9 Q. So what did you say to him then?

10 A. I asked him just drive by, not even stop.

11 Q. Right.

12 A. And eventually I got the clear understanding that
13 under no circumstances was he going out there and the
14 conversation ended.

15 Q. So what did you do at that point?

16 A. Just sitting there at the house trying to figure
17 out what to do, you know. Waiting.

18 Q. Didn't know what to do?

19 A. Didn't know what to do. 1800 miles -- however
20 many miles it is between us and Nashville and here, couldn't
21 do anything.

22 Q. Were you worried?

23 A. Yes. Extremely worried.

24 Q. Okay. So you sat there waiting, and were you
25 ultimately contacted by somebody?

1 A. Yes.

2 Q. Who were you contacted by?

3 A. Steve DeMocker called me.

4 Q. And how much time had gone by when Steve DeMocker
5 called you?

6 A. I am going to say that somewhere within an hour
7 from the time I spoke to him at his house.

8 Q. Okay. And do you remember the time there in
9 Nashville when you heard from him, approximately?

10 A. A little after 12:00, I guess.

11 Q. So it was after midnight when you heard from him?

12 A. Yes.

13 Q. And what did he say?

14 A. He told me that, "John, you need to call your mom
15 and tell her that Carol is gone."

16 Q. You remember those words specifically?

17 A. Specifically, yes.

18 Q. Did you understand what he meant when he said
19 that?

20 A. Yes. I pressed him and tried to get him to
21 explain a little more.

22 Q. Did he say where he was at when he called?

23 A. At Carol's home.

24 Q. He was at Carol's house when he called?

25 A. Right.

1 Q. Did he say where he was at at Carol's house?

2 A. Outside the police barrier somewhere, you know.

3 For some reason, I had the impression just in front of the
4 house in the driveway.

5 Q. Did you ask him what happened?

6 A. Yes.

7 Q. What did he tell you?

8 A. He told me that it appeared that she had suffered
9 a fall.

10 Q. Did he say anything further about what he knew in
11 terms of what happened?

12 A. No.

13 Q. How did he sound to you when he gave you this
14 information?

15 MR. SEARS: Relevance.

16 THE COURT: Sustained.

17 BY MR. BUTNER:

18 Q. Did he describe the circumstances there at the
19 scene any further?

20 A. I don't think so.

21 Q. Did he say who he was with when he called you?

22 A. I had the understanding that Charlotte was there
23 and possibly her boyfriend.

24 Q. Do you know what it was that gave you that
25 understanding?

1 A. No, not really.

2 Q. What was Mr. DeMocker's tone of voice when he gave
3 you this information?

4 MR. SEARS: Relevance.

5 THE COURT: Overruled.

6 THE WITNESS: Sounded like he had always
7 sounded every time I had ever talked to him in the 25 years
8 that I had been associated with him, and I probably only
9 talked to him six or seven times in that entire time.

10 BY MR. BUTNER:

11 Q. So after getting this information from Steven
12 DeMocker, what did you do?

13 A. I awakened my wife, Debbie, and told her what was
14 going on, and that we needed to drive down to mom's.

15 Q. How far away does your mother live?

16 A. It is about seven miles.

17 Q. So did you do that?

18 A. Yes.

19 Q. And about what time did you get to your mother's
20 house?

21 A. Somewhere around two o'clock, 2:15, something like
22 that.

23 Q. Two o'clock in the morning?

24 A. Yes.

25 Q. So this was now on July the 3rd in Tennessee;

1 right?

2 A. Right.

3 Q. And what did you do when you reached your mother's
4 house?

5 A. Went to the back door and knocked, and she came
6 and let us in, and I told her what I knew, and she crumbled
7 to the floor.

8 Q. Did you stay there with your mother then that
9 evening, that night, early morning?

10 A. Right. I stayed the rest of the night.

11 Q. And did you have any further conversation with
12 Steve DeMocker about what happened to your sister at any
13 point in time?

14 A. I don't really recall.

15 Q. Was there a memorial service for your sister?

16 A. Yes.

17 Q. When was that, approximately?

18 A. It was in -- I want to say about three weeks, so
19 the latter part of July.

20 Q. And where was it held?

21 A. At Sedona.

22 Q. Did you come out from Tennessee for it?

23 A. Yes.

24 Q. And approximately how many people were at the
25 memorial service?

1 A. I'd say about a hundred.

2 Q. And was Steve DeMocker there?

3 A. Yes.

4 Q. And who was there with Steve DeMocker? Was there
5 anybody accompanying him, so to speak?

6 A. Both Charlotte and Katie were there, and a woman
7 who introduced herself to me as Renee.

8 Q. And had you met Renee before?

9 A. No.

10 Q. Did you get her last name?

11 A. No.

12 Q. What was your understanding as to who Renee was?

13 A. Steve's current girlfriend.

14 Q. And at this memorial service, did you speak with
15 Steve DeMocker?

16 A. Only briefly.

17 Q. Did you attempt to talk with Steve about the
18 circumstances of your sister's death?

19 A. Yes.

20 Q. And what happened when you did that?

21 A. Every time I approached Steve, and Renee was just
22 about with him all the time, he would -- they would go away
23 from me. So I never really got a chance to talk.

24 Q. How many times did you try to approach him?

25 A. I don't know. At least half a dozen or more. We

1 were there a pretty good while.

2 Q. How long were you there, approximately?

3 A. I'd say the memorial service, the first part of
4 it, lasted about an hour or longer, and then there was kind
5 of a refreshment or reception thing down in the shade by the
6 creek, so that was another hour-and-a-half or two.

7 Q. During that entire two-and-a-half hour time, did
8 you ever get to speak with Steve about what happened to
9 Carol?

10 A. No.

11 Q. And have you ever since that time been able to
12 speak to Steve DeMocker about what happened to Carol?

13 A. I don't think so.

14 MR. BUTNER: I don't have any further
15 questions of this witness at this time.

16 THE COURT: Mr. Sears.

17 MR. SEARS: Thank you.

18 Could I have a minute with Mr. Butner?

19 THE COURT: Yes.

20 (Whereupon, a discussion was held off the record.)

21 MR. SEARS: Your Honor, I think it might be
22 appropriate if we could take a moment here and set up the
23 computer and play a recording of Mr. Kennedy.

24 THE COURT: Are you all right with that,
25 Mr. Butner?

1 MR. BUTNER: I am, Judge. I just don't know
2 how to do it.

3 THE COURT: I'll certainly give you that time.

4 (Brief interruption.)

5 THE COURT: Record reflects we had a little
6 side bar, went over some jury questions. I am not going to
7 ask any of the jury questions until after the cross and
8 redirect is concluded. We will see what hasn't been covered,
9 if anything, at the close of that.

10 I am going to authorize Mr. Butner to
11 re-open, essentially, his direct. He had a couple more
12 questions.

13 REDIRECT EXAMINATION RESUMED

14 BY MR. BUTNER:

15 Q. John, do you remember calling Steve's house and
16 leaving a message?

17 A. Yes.

18 Q. And does it sound about right to you that it was
19 July 2nd at 8:44 p.m.?

20 A. Yes.

21 Q. That is Arizona time. It is 10:44 p.m. Nashville
22 time; right?

23 A. Right.

24 MR. BUTNER: Let's play that message at this
25 time.

1 (Whereupon, a recording was played and not reported.)

2 BY MR. BUTNER:

3 Q. Do you remember leaving that message, John?

4 A. Yes.

5 Q. And that was after your mother had called you?

6 A. Right.

7 Q. And you were concerned about your sister's
8 well-being?

9 A. Yes.

10 MR. BUTNER: Okay. Thank you.

11 I don't have any further questions at
12 this time.

13 THE COURT: Thank you.

14 Mr. Sears.

15 MR. SEARS: Thank you.

16 CROSS-EXAMINATION

17 BY MR. SEARS:

18 Q. Good morning, Mr. Kennedy.

19 A. Good morning.

20 Q. My name is John Sears. I am one of the lawyers
21 that represents Steve DeMocker here, and I do have some
22 questions for you here this morning.

23 A. Okay.

24 Q. I want you to know that we are all very sorry for
25 your loss. I didn't know your sister, but I am terribly

1 sorry.

2 Let me go back to the call you got from
3 your mom. Looking at that transcript and listening to that
4 voice mail, it would appear that the first call you made to
5 Steve on his landline was somewhere around 8:44 Arizona time,
6 10:44 your time. Assuming that that is roughly accurate, do
7 you have any sense of how long before that it was that your
8 mother called you?

9 A. I think she called me around 10:15 or so.

10 Q. 8:15 Arizona time?

11 A. Right.

12 Q. So roughly 30 minutes later, a little less than 30
13 minutes later you called Steve; is that right?

14 A. Yes. I was making numerous calls to Carol's lines
15 in hopes that somebody would pick up out there.

16 Q. And that number that you left in the voice mail,
17 that is your home landline number?

18 A. That was at the time.

19 Q. Not your cell phone. It is your home landline?

20 A. My home landline, right.

21 Q. When were you calling Arizona trying to call Carol
22 and trying to call Steve, were you always calling from your
23 house phone, your landline?

24 A. Yes.

25 Q. I have a series of phone records that were

1 provided to us in this case by the police. They subpoenaed
2 Carol's phone records, Steve's phones records, and lots of
3 phone records.

4 The first one that I have is Bates 1964.
5 It says on July 2nd at 8:40, which would be Arizona time,
6 your home number, which ended in 9903 -- was that your number
7 at the time?

8 A. It was 9909.

9 Q. It might be a typo. This is a police report.
10 -- called Carol's home. The call
11 registered for 47 seconds. That is a couple of minutes
12 before you called Steve, and the call was long enough --
13 would you have left a voice mail for Carol at 8:40 on her
14 home phone?

15 A. I don't recall that, sir.

16 Q. The reason I say that is a lot of these other
17 calls, that we talked about here yesterday with your mother
18 and today, I am going to talk about are very short; five, six
19 or seven seconds. That call is a bit longer. It is
20 indicated on the billing record as 47 seconds.

21 I understood you to say to Mr. Butner, on
22 the times when you tried Carol's home phone and landline and
23 her cell phone, you don't remember it every going to voice
24 mail. It just rang and rang.

25 A. Yes, sir.

1 Q. Had you ever called Carol's home phone or cell
2 phone and gotten either an answering machine or voice mail
3 for her?

4 A. No. I don't remember ever getting that.

5 Q. So, had you ever called Carol's -- before that
6 night, called Carol's home, landline or her cell phone, and
7 just had it ring like it did that night, just ring without
8 being answered?

9 A. I don't remember that.

10 Q. But I assume you talked to your sister on a
11 regular basis?

12 A. I talked to her -- we had started talking more
13 frequently, but no, we didn't talk a whole lot.

14 Q. Would she from time to time call you at your home?

15 A. No. I had begun calling her maybe once every six
16 weeks or a month, and we would have a short conversation and
17 talk about just stuff.

18 Q. Over what period of time were you calling her that
19 regularly before her death, if you know?

20 A. I would say just 2008. We had started to
21 reconnect a little bit.

22 Q. So in the last five or six months of her life, you
23 had started calling her more regularly?

24 A. Yes.

25 Q. And can you tell us -- you were Carol's older

1 brother?

2 A. Yes.

3 Q. How much older than Carol?

4 A. Two years.

5 Q. Are there other children in the family?

6 A. No.

7 Q. Just the two of you?

8 A. Just the two of us.

9 Q. And we understand from your mom that your dad
10 passed a few years ago?

11 A. Yes.

12 Q. So now it is your mom and you?

13 A. Yes.

14 Q. About how far is your home in Old Hickory from
15 your mother's home?

16 A. Right about seven miles from driveway to driveway.

17 Q. And I assume that particularly since this
18 happened, but even before that, you would visit your mother
19 on a regular basis?

20 A. Yes.

21 Q. So the first call that I see to Carol's home by
22 you is at 8:40. Do you think you called Carol's home or try
23 to get Carol earlier than 10:40 that night?

24 A. No.

25 Q. You think that would have been the first call?

1 A. Yes.

2 Q. Then there is another call at 9:03 -- these are
3 written in military time. I have to do this in my head. At
4 9:03 Arizona time, which would have been 11:03 your time,
5 there is a record that you called Carol's home, and the call
6 registered for 13 seconds. That is just 23 minutes later.

7 And in between then you called and left
8 this message for Steve; right?

9 A. Yes.

10 Q. Did your mother tell you that she had called the
11 police here in Arizona to get them to go look in on Carol?

12 A. I don't remember.

13 Q. Did you call the police?

14 A. No.

15 Q. Then there is another call at 11:49 Arizona time,
16 which would have been 1:49 in the morning your time. You
17 called Carol's home again, and the call registered for eight
18 seconds. I see that as another call. Okay.

19 Does that sound right?

20 A. Sure. It's been two years almost.

21 Q. I understand. Have you been given any records or
22 police reports or other materials to look at before you came
23 here today by the prosecution?

24 A. Just some transcripts of conversations.

25 Q. Of interviews that were conducted?

1 A. Right.

2 Q. We have not had a chance to speak?

3 A. No.

4 Q. And then looking at calls to Steve, the billing
5 records actually show that this call which Steve's answering
6 machine says was at 8:44, the billing record says it was
7 8:42. That may simply be the difference in the clocks used
8 by the phone company and the clock on Steve's answering
9 machine, but between 8:42 and 8:44, it shows that that call
10 was made and it registered for 29 seconds. Roughly long
11 enough to leave that message.

12 Does that sound right?

13 A. Sure.

14 Q. Then there is another call to the same number for
15 you at 9:04, which would have been just one minute
16 after -- there was two calls. One at 9:03 and one at 9:04.
17 At 9:03, there is a record that you dialed Steve's cell
18 phone, and the call lasted 7 seconds. And then there is one
19 at 9:04 where you called his landline, and that call
20 registered for four seconds. So it would appear that you are
21 calling the two numbers that you had, one right after the
22 other?

23 A. Sure.

24 Q. Did you have, if you recall, Steve's home phone
25 and his cell phone number before that night? Did you have

1 that in your address book someplace?

2 A. No.

3 Q. Do you remember where you got it?

4 A. Mom.

5 Q. Both the numbers?

6 A. Right. I asked her for both the numbers.

7 Q. But you had Carol's number, of course?

8 A. Yes.

9 Q. And Carol's landline and cell phone number?

10 A. Right.

11 Q. So, we talked about the first two calls, one at
12 8:42 and one at 9:04 to Steve. Then there is another call at
13 10:30 Arizona time, 12:30 your time, where you call Steve's
14 cell. And that call lasted for three minutes and nine
15 seconds. And it was from your home. And I am of the opinion
16 that that's the call that you told us about where you
17 actually spoke with Steve, and he said he was dripping wet,
18 just got out of the shower. Does that sound like the time,
19 12:30 in the morning?

20 A. Most probably, yes.

21 Q. That call lasted three minutes and nine seconds.
22 Does that sound about right?

23 A. Sure.

24 Q. Then there is another call that I don't think you
25 talked about with Mr. Butner. You called Steve -- I'm sorry.

1 Steve called you at 11:26 Arizona time, which would be 1:26
2 your time?

3 A. Yes.

4 Q. And that call lasted three minutes and 45 seconds,
5 and I don't believe we have talked about that call, because
6 there is another call from Steve to you at 11 minutes after
7 midnight, and that call lasted 11 seconds. I'm trying to go
8 back and forth between these. There is a call right after
9 that.

10 At 11:26 Arizona time, the information
11 that I have is that no one knew, no one but the police, but
12 not Steve or Charlotte or the boyfriend knew that Carol was
13 dead yet. Do you remember getting a call from Steve after
14 you talked to him when he had gotten out of the shower, but
15 before he called to say that Carol was dead? Do you remember
16 getting a call from Steve in the middle of that time period?

17 A. No. I do not remember that.

18 Q. If I told you that I believe in that call Steve
19 was talking to you about whether or not you or your mother
20 had heard back from the police yet, does that sound familiar?

21 A. No.

22 Q. When you talked to Steve at 10:30 Arizona time,
23 did either of you in that conversation talk about the fact
24 that your mother had called the police and was hoping they
25 would go out and check on Carol?

1 A. I don't remember.

2 Q. Do you remember anything at all about this call
3 that the records show took place at 11:26 Arizona time for
4 three minutes and 45 seconds where Steve called you?

5 A. Steve called me? I am thinking that is the call
6 where Steve told me I needed to go tell my mom that Carol was
7 gone.

8 Q. If I told that you there doesn't appear to be any
9 other evidence that would suggest that at 11:26 Arizona time,
10 Steve had any way to know that Carol was dead. It was before
11 midnight, and it was actually before Charlotte and her
12 boyfriend went out to the scene. Do you have a recollection
13 of the call?

14 A. No, I really don't.

15 Q. But you got a call, it would have been sometime
16 after 2:00 in the morning Tennessee time from Steve saying
17 you needed to go to your mother's and tell her that Carol was
18 gone, and that is the call that you do remember?

19 A. Yes.

20 Q. And did you do that? Did you go over to your
21 mother's?

22 A. Yes.

23 Q. And at some point, apparently, later that night or
24 early that morning, a chaplain from the Nashville Police
25 Department came and officially told both of you that Carol

1 had died?

2 A. Yes.

3 Q. In that period of time from the first conversation
4 you had with your mother about 10:15 your time until very
5 early the next morning, did either you or your mother have
6 any contact with the Yavapai County, Arizona, Sheriff's
7 office? Did they call to say what had happened?

8 A. I remember at some point, and I don't know, but
9 mom told me that she had spoken with first the Prescott
10 police, and was told that Carol's address was out of their
11 jurisdiction, and they gave her the Sheriff's department
12 number, and she called them sometime.

13 Q. What I am actually asking, Mr. Kennedy, is whether
14 you remember anyone from the police here in Arizona calling
15 to tell you or your mother that Carol was dead, or was that
16 done by the chaplain from the Nashville Police Department?

17 A. As far as I know, it was done by the chaplain.

18 Q. Do you remember what time that was?

19 A. About 2:20, 2:30, Nashville.

20 Q. Late at night?

21 A. Yes, sir.

22 Q. A chaplain came to your mother's home?

23 A. Yes.

24 Q. You were at your mother's by then?

25 A. Yes.

1 Q. This call -- I think I misspoke myself here,
2 Mr. Kennedy. The call from Steve's cell phone to your home
3 that the phone records show was 11 minutes after midnight
4 Arizona time, 11 minutes after 2:00 in the morning your time,
5 actually lasted for two minutes and 11 seconds, 131 seconds.
6 That is the call you remember where Steve says you need to go
7 to Ruth's house and tell her what happened?

8 A. Right.

9 Q. As you sit here today, you don't remember the call
10 at 1:26 in the morning from Steve?

11 A. No. I have no recollection of it. That was a
12 crazy night.

13 Q. I am sure it was. I am sure it was.

14 This memorial service in Arizona, of
15 course I wasn't there, but it sounds like a nice thing for
16 your sister.

17 A. Right.

18 Q. In addition to Steve and Renee and your nieces,
19 Charlotte and Katie, there were other members of the DeMocker
20 family that had come; right?

21 A. Yes, sir.

22 Q. Pretty much all of them?

23 A. Yes, sir.

24 Q. You had known them for many years; right?

25 A. No.

1 Q. Did you know them -- do you remember when Carol
2 got married? Did you go to her wedding?

3 A. No.

4 Q. I get the impression, Mr. Kennedy, that you really
5 didn't have a particular relationship with Steve over the
6 years that he was with Carol. Is that pretty safe?

7 A. Really, we probably only saw each other six or
8 seven times in the whole time.

9 Q. Over 25 years?

10 A. Yeah.

11 Q. Had you ever -- before the memorial service, had
12 you ever been to this part of Arizona to see your sister or
13 her family?

14 A. No.

15 Q. At this memorial service, you said that Steve
16 didn't want to visit with you, and that as you went towards
17 him, he would move away. That happened a number of times.
18 Did you hear Steve talking to other people at the memorial
19 service? Did you overhear him having actual conversations
20 where you could understand what he was saying?

21 A. No. I don't recall that. I remember his speech
22 that he made.

23 Q. About Carol?

24 A. About Carol.

25 Q. Tell me a little bit about what the memorial

1 service was like. There was a part that was an hour or
2 better?

3 A. Well, it was up on a flat plateau type of spot,
4 and they had a table set up and had Carol's favorite music
5 playing, and I remember Steve got up and made his talk, and
6 it was -- the sun was just beating down, and it was real hot.
7 And I remember Charlotte getting up and talking and some --
8 just a nice service.

9 Q. It was emotional?

10 A. Yes.

11 Q. People were crying?

12 A. Yes.

13 Q. There were pictures of Carol around?

14 A. On a table.

15 Q. Some of her artwork?

16 A. Could have been. I don't really recall.

17 Q. Were there people there you didn't know?

18 A. Yes.

19 Q. Friends of Carol's maybe?

20 A. Yes.

21 Q. Did some of them speak?

22 A. Yes.

23 Q. Some of her girlfriends?

24 A. Uh-huh.

25 Q. Did you know them?

1 A. No.

2 Q. Did you say anything?

3 A. No.

4 Q. Did your mother say anything?

5 A. I don't remember.

6 Q. You strike me as very shy and private people, you
7 and your mother. Would that be fair to say?

8 A. I guess so.

9 Q. This is tough for you to be here today?

10 A. Yes.

11 Q. Going back to this conversation that you do
12 remember having with Steve, the one where he said he was
13 coming out of the shower. He told that you he had been on a
14 bicycle ride and had just gotten back; is that right?

15 A. Yes.

16 Q. And that stands out in your mind that he said
17 that?

18 A. Yes.

19 Q. And did he say anything about the ride? Where it
20 was? What happened?

21 A. No.

22 Q. Just that he was taking a shower?

23 A. Just he had been out on his mountain bike, working
24 out. That was the sentence that I remember.

25 Q. Did you get the impression, Mr. Kennedy, that that

1 call was the first time that Steve had any idea that anyone
2 was concerned about Carol that night?

3 A. I don't really know.

4 Q. Did Mr. DeMocker say that he had heard messages
5 from your mother or from anyone else before that so that he
6 knew generally what you were talking about?

7 A. No.

8 Q. Is it possible, then, that your call to him was
9 the first time that he actually learned that people were
10 worried about what had happened with Carol?

11 A. I guess it is possible.

12 Q. And in that conversation you said that
13 Mr. DeMocker said that he didn't want to -- I think your
14 words were infringe on Carol's privacy; is that correct?

15 A. Yes.

16 Q. He told you they had just gotten divorced, and he
17 didn't think it would be right for him to go out there,
18 because she might have a gentleman --

19 A. No. There was no mention of that at all. It was
20 just, I am not going out there. I am not going to infringe
21 on her privacy.

22 Q. Was there any discussion about the fact that Carol
23 sometimes screened her calls, particularly calls from Steve?

24 A. No.

25 Q. Would it be fair to say at the end of that call

1 you were upset with Steve?

2 A. Yes.

3 Q. You felt that you had asked him to do something
4 reasonable, and he just refused without good reason; is that
5 right?

6 A. Yes.

7 Q. That was your impression?

8 A. That was my impression, yes.

9 Q. Did Steve shout at you in that call?

10 A. No.

11 Q. Did he use bad language?

12 A. No.

13 Q. Did he hang up on you?

14 A. No.

15 Q. The call just didn't accomplish its purpose. You
16 wanted him to go out and he just wouldn't?

17 A. He just wouldn't.

18 Q. Am I understanding you to say that you believe
19 that Steve may have called you back a little less than an
20 hour later, about 56 minutes later, but you just don't have
21 any recollection of that conversation?

22 A. I remember speaking to Steve two times that night.
23 That's all I recall.

24 Q. Could it have been three?

25 A. To my recollection, no.

1 Q. At 1:26 in the morning on July 3rd, you were still
2 at your home in Old Hickory; correct?

3 A. No.

4 Q. Where were you?

5 A. By 1:26, in Nashville. I was already -- had
6 already gone down to mom's.

7 Q. But you told us, I thought, that the call that
8 came in at 2:11 in the morning Nashville time, the one that
9 lasted two minutes and 11 seconds, the phone records show
10 that it was a call made from Steve's cell phone to your home
11 phone and it lasted that long, and that was the call that you
12 remember?

13 A. What time was that?

14 Q. That would have been 2:11 a.m. on July 3. I think
15 the phone records would indicate, unless you tell me
16 otherwise, that you were still at your home at 2:11?

17 A. May have been. I just don't remember those times.

18 Q. And at 1:26, you didn't go to your mother's house
19 earlier that night, go back to your house, and back to your
20 mother's?

21 A. No.

22 Q. When you went to your mother's house, you stayed?

23 A. Right.

24 Q. If you were home at 2:11 in the morning, you also
25 would have been home at 1:26 in the morning?

1 A. Yes.

2 Q. That was the call that lasted, according to the
3 phone records, three minutes and 45 seconds, and you just
4 have no recollection of that?

5 A. I have a recollection of the two calls we have
6 talked about, okay. The two conversations.

7 Q. Would Steve have spoken with your wife at 1:26 in
8 the morning?

9 A. It is possible.

10 Q. Has your wife ever said in the nearly two years
11 since this that she talked to Steve that night?

12 A. I don't think so.

13 Q. Your mother wouldn't have been at your house at
14 1:26 in the morning?

15 A. No.

16 MR. SEARS: Thank you.

17 I don't have any other questions for
18 Mr. Kennedy. Thank you, sir.

19 THE COURT: Redirect.

20 REDIRECT EXAMINATION

21 BY MR. BUTNER:

22 Q. Just to clarify, John, your first contact with
23 Steve that night, you called him; right?

24 A. Yes.

25 Q. Okay. And that was the telephone call where he

1 told you he was dripping wet?

2 A. Right.

3 Q. And just got out of the shower and had been
4 working out on his mountain bike?

5 A. Right.

6 Q. And did he say anything further about what he had
7 been doing besides what you just described?

8 A. No. He just, you know, said he had just come --
9 been out on his mountain bike working out. Out on his
10 mountain bike working out, yeah.

11 Q. Okay. And what did you say to him in this
12 conversation then?

13 A. I told him that we thought something bad might
14 have happened out at Carol's, and I asked him to go out --
15 would he drive out and check on her. Would he please get in
16 his car and go out and check on her.

17 Q. And this is actually the second phone call that
18 you have made to Steve's house; right? The first one you
19 made, you left a message on his landline?

20 A. Sure, yeah.

21 Q. This was the first one that you had been able to
22 directly reach Steve?

23 A. Yes.

24 Q. And it took place, basically, a couple hours later
25 than the first message; right?

1 A. Uh-huh.

2 Q. Is that correct?

3 A. Yes, sir.

4 Q. At least two hours?

5 A. At least.

6 Q. So when you spoke with him, you were asking him to
7 go out with Carol -- to go out to Carol's and check on her;
8 right?

9 A. Right.

10 Q. What did you tell him to try to persuade him to
11 get him to go?

12 A. I told him, you know -- he was refusing to go, and
13 I said, you know, she's the mother of the two girls, go check
14 on her. Just go check on her. I think I might have even
15 suggested that if he didn't want to stop, just drive by.

16 Q. You were getting a little frantic at this point?

17 A. Yeah. I was very frantic.

18 Q. What did he say?

19 A. "No." Flat refusing. He won't go.

20 Q. Were you upset when you hung up?

21 A. Yes.

22 Q. And if I understand your testimony, you don't
23 recall another phone call from Steve until you spoke with him
24 and he told you about Carol being --

25 A. Right. Being gone.

1 Q. Being gone. Those were the words he used; right?

2 A. "John, you need to go tell your mom that Carol is
3 gone."

4 Q. And that call, approximately how long did that
5 last?

6 A. I don't know. Maybe a couple minutes. I think I
7 asked him to be a little more specific about what he meant,
8 you know. "She's gone."

9 Q. What did he say when you asked him to be more
10 specific?

11 A. "She's dead." I think, seems apparently she
12 suffered a fall. I asked him what happened, and that was
13 what he told me.

14 Q. Apparently she suffered a fall?

15 A. Apparently she suffered a fall, yeah. Where that
16 information came from, I don't know.

17 Q. He didn't tell you any more information about the
18 circumstances of her death?

19 A. No.

20 Q. Is that the only time you have ever had
21 conversation with him about the circumstances of her death?

22 A. To my recollection, yes, sir.

23 MR. BUTNER: Thank you. No further questions.

24 THE COURT: Let me see counsel again, please.

25 (Whereupon, a discussion was held off the record.)

1 THE COURT: I will indicate for the record,
2 obviously I received a number of questions, most of which
3 came in before the cross and the redirect. I waited until
4 the end. I think the questions were covered or for other
5 reasons, the Court, applying the rules of evidence and the
6 rules of procedure, will not ask the additional questions.

7 With that, may Mr. Kennedy be excused?

8 MR. BUTNER: He may, Judge.

9 THE COURT: Any objection?

10 MR. SEARS: No, Your Honor.

11 THE COURT: You may step down, Mr. Kennedy.

12 THE WITNESS: Thank you.

13 THE COURT: It is a little bit early, since we
14 started about an hour ago, but it makes sense to take the
15 break now. So remember the admonition. We will take about
16 15 minutes.

17 (Whereupon, the jury exits the courtroom.)

18 (Brief recess.)

19 (Whereupon, the jury enters the courtroom.)

20 THE COURT: Record reflects the presence of
21 the defendant and his counsel, the prosecution team and the
22 jury.

23 You may call your next witness.

24 MR. BUTNER: Thank you.

25 I would call Deputy Matt Taintor to the

1 stand, please.

2 THE CLERK: You do solemnly swear or affirm
3 under the penalty of perjury that the testimony you are about
4 to give will be the truth, the whole truth, and nothing but
5 the truth, so help you God?

6 THE WITNESS: I do.

7 THE COURT: You may proceed.

8 MR. BUTNER: Thank you.

9 MATTHEW RAYMOND TAINTOR,
10 called as a witness, having been duly sworn, testified as
11 follows:

12 DIRECT EXAMINATION

13 BY MR. BUTNER:

14 Q. Please state your full name for the record, sir.

15 A. Matthew Raymond Taintor.

16 Q. And what is your occupation?

17 A. Deputy sheriff.

18 Q. And is this for Yavapai County, Arizona?

19 A. Yes, sir.

20 Q. How long have you been a deputy sheriff in Yavapai
21 County, Arizona?

22 A. 14 years.

23 Q. And do you have any special education or training
24 that prepared you for your occupation as a Yavapai County
25 Sheriff's deputy?

1 A. Yes, sir. I had a detention academy, because I
2 was previously employed with the Sheriff's office as a
3 detention officer for roughly a year-and-a-half, and I
4 attended the detention academy, and I also had a law
5 enforcement academy that I attended, which was NARTA, which
6 is out in Prescott Valley.

7 MR. SEARS: Your Honor, could we have Deputy
8 Taintor maybe turn the microphone in.

9 THE COURT: If you would pull it in a little
10 closer. Thank you.

11 BY MR. BUTNER:

12 Q. So you attended the NARTA Police Academy?

13 A. Yes.

14 Q. When did you graduate from NARTA?

15 A. I graduated from NARTA in December of '98.

16 Q. When did you begin performing your duties as a
17 Deputy Yavapai County Sheriff?

18 A. I believe it was also in December of '98.

19 Q. And were you performing your duties as a Deputy
20 Yavapai County Sheriff on the date of July the 2nd of the
21 year 2008?

22 A. Yes, sir.

23 Q. Do you remember that specific date?

24 A. Yes, sir.

25 Q. What shift were you working on July 2nd of 2008?

1 A. I believe it was a swing shift.

2 Q. When you say "a swing shift," approximately what
3 hours were those that you were working on that day?

4 A. I believe I was scheduled to work from 1600 hours,
5 which would be 4:00 in the afternoon until 2:00 in the
6 morning.

7 Q. That was your scheduled time of work?

8 A. Yes, sir.

9 Q. And in performing your duties on that date, did
10 you have occasion to respond to a scene at, I believe it was,
11 7485 Bridle Path out Williamson Valley Road?

12 A. Yes, sir.

13 Q. Would you describe for us how it is that you ended
14 up going to that specific scene?

15 A. I was at the Prescott office, the Sheriff's office
16 here in Prescott at 255 East Gurley Street, and I was in the
17 patrol room, and I was called from dispatch and advised that
18 there was a welfare check at that location on Bridle Path,
19 and that's how I became involved.

20 Q. And tell us, what is a welfare check, basically?

21 A. There was a reporting person that called that was
22 concerned about another person's welfare to make sure that
23 they were okay. In this particular instance, I was advised
24 that my reporting person was speaking to the person I need to
25 contact at Bridle Path, and while they were on the phone, the

1 phone went quiet after she heard the female subject say, "Oh,
2 no."

3 Q. So you were told that someone had said "Oh, no,"
4 and the phone went dead?

5 A. Went silent, yes.

6 Q. Phone went silent?

7 A. Yes.

8 Q. Okay. And with this information in mind,
9 approximately what time did you respond to the Bridle Path
10 scene?

11 A. Are you referring to what time I arrived at the
12 Bridle Path scene?

13 Q. That would be good.

14 A. I believe it was 2052. Can I check and make sure
15 in my radio log?

16 Q. Sure.

17 A. (Whereupon, the witness reviews a document.)

18 Yes. According to my radio log, I
19 arrived at the scene --

20 Q. Deputy Taintor, don't read from your radio log.
21 You can refresh your recollection with your radio log, but
22 then it would be a good idea to close your book back up, so
23 you can testify from your recollection refreshed.

24 A. My recollection being refreshed, it was 2052 when
25 I arrived at the scene.

1 Q. For us people that use Mickey's big hand, is that
2 about --

3 A. 8:52 p.m.

4 Q. 8:52 p.m.

5 And did you know where this address was,
6 7485 Bridle Path?

7 A. I found it when I was driving down Bridle Path,
8 followed the numbers to that address.

9 Q. Had you been in that area before?

10 A. Yes, sir, I had.

11 Q. Had you ever had to respond to that specific
12 location?

13 A. Not that I remember.

14 Q. But you were generally familiar with the area?

15 A. Yes, sir.

16 Q. So you responded to the Bridal Path address, and
17 tell us, basically, what you did when you got there. First
18 of all, where did you park your car?

19 A. When I located the residence, I pulled into the
20 driveway, and I got out of my car. It was getting dark. It
21 was pretty much all dark. I could still make out the house,
22 you know, the outline of the house. I could locate the front
23 door, and I walked up to the front door.

24 Q. All right. And when you walked up to the front
25 door, what did you observe, if anything?

1 A. I don't understand the question.

2 Q. Well, let's start by just kind of going through
3 this scene.

4 MR. SEARS: Could I visit with Mr. Butner for
5 just a moment, Your Honor?

6 THE COURT: You may.

7 (Whereupon, a discussion was held off the record.)

8 MR. BUTNER: Just to clarify the record,
9 Judge, Mr. Sears and I have already stipulated these
10 photographs into evidence that I am going to be using, at
11 least that is what the clerk tells me. So I won't slow down
12 the process anymore than I already am, apparently.

13 THE COURT: Are we in the sequence starting
14 2241?

15 MR. BUTNER: That is the exhibit numbers that
16 they commence with, and they go to 2291 with four numbers
17 excepted from that.

18 THE COURT: I will confirm that those are in
19 evidence already.

20 MR. BUTNER: Thank you.

21 Q. Let's refer to Exhibit No. 2251. Okay.

22 Deputy Taintor, if you would take a look
23 behind you, do you recognize what is depicted in Exhibit
24 2251?

25 A. Yes.

1 Q. What is that, sir?

2 A. That is the residence at the Bridle Path address.

3 Q. And is that the front door that you went up to?

4 A. Yes, sir.

5 Q. When you went up to the front door, you indicated
6 that it was pretty much dark?

7 A. Yes, sir.

8 Q. Did you need -- was there any light there at the
9 front door?

10 A. There was no light on in the house that I could
11 see, other than possibly there was a blue light that was in
12 that window to the left of that front door that I believe to
13 be a network router. I knew the front door was there when I
14 first pulled in because it was illuminated by my headlights
15 when I pulled into the driveway.

16 Q. You went up to the front door, and you saw a blue
17 light in the window right next to the front door on the left.
18 Is that correct?

19 A. Yes, sir.

20 Q. Did anything else get your attention when you came
21 up to the door there?

22 A. No, sir.

23 Q. Did you hear any noises coming from the house?

24 A. After I knocked on the front door, I heard what I
25 believed to be dogs on the inside of the house.

1 Q. And were you using anything to illuminate the area
2 in which you were located?

3 A. I don't remember.

4 Q. Did you take something with you to illuminate the
5 area?

6 A. Yes. I had my flashlight with me.

7 Q. So you knocked on the front door. You heard dogs
8 barking?

9 A. Yes, sir.

10 Q. What did do you at that point?

11 A. When no one answered the door, I looked into the
12 window to my left, and again, I saw the blue light, and it
13 appeared to be a network router. I went to the window to the
14 right and used my flashlight and looked into the house, and I
15 saw what I believed to be a dining room, and there were
16 several dogs, small dogs, that were barking that were
17 standing near that window.

18 Q. When you say several, do you recall how many?

19 A. Two.

20 Q. Two small dogs?

21 A. Two small dogs, yes, sir.

22 Q. After looking in that window, then where did you
23 go?

24 A. I stepped off of the porch to my right, and I
25 followed that block wall down to another location where there

1 is a sidewalk area with an archway, and I walked up through
2 the archway, and I saw to my right what appeared to be a
3 garage, another type of outbuilding, and I went over there to
4 investigate that area first before I continued on with the
5 main house.

6 Q. Let me show you what has been marked as Exhibit
7 No. 2253.

8 Do you recognize what is depicted in
9 2253?

10 A. Yes, sir.

11 Q. What is that?

12 A. That is the side yard looking down the driveway,
13 and I was parked -- if you look at the archway, I was parked
14 right there in that driveway area, right in front of that
15 archway.

16 THE COURT: To the extent that you need to or
17 want to, there is a laser pointer to your right up on the
18 bench.

19 THE WITNESS: Thank you.

20 I was parked right here in the driveway.
21 So I came from the house. I followed this wall over to this
22 area. I came up through here. When I approached this "T" in
23 the sidewalk, this section here goes towards the main house.
24 This goes toward an outbuilding, which I believe to be a
25 garage, and there is a door right over here.

1 After I walked up to here, I followed the
2 sidewalk to the outbuilding and went to this door over here.

3 BY MR. BUTNER:

4 Q. All right. Let me see if I can -- let me show you
5 what has been marked as Exhibit No. 2250.

6 Do you recognize what is depicted in that
7 photograph?

8 A. Yes.

9 Q. What is that?

10 A. That is the outbuilding, which I believe to be a
11 garage, and the doorway -- I can't tell if it is able to be
12 made out, but the doorway is, I believe, right about here.

13 Q. When you went over to that building, what did you
14 do?

15 A. Since I did not get a response at the main house
16 over here and then saw this outbuilding, I went over here and
17 knocked on the door to see if anybody was inside this
18 building.

19 Q. Did you get any response when you knocked on that
20 door?

21 A. I did not.

22 Q. Did you try to open either one of those doors?

23 A. This door here, after I knocked, I announced
24 myself. I opened the door. Announced myself again. It was
25 dark inside there. I quickly walked through there, did a

1 protective sweep to see if there was anyone inside the place.

2 Q. Would you describe what you do when you do a
3 protective sweep in there, because it is important.

4 A. What I do with a protective sweep is I try to
5 locate if there are any occupants inside. When I walked in
6 there, it became apparent that it was a guesthouse. There
7 was a kitchen. I believe it was along this wall here. You
8 walk inside and there was living quarters farther inside, and
9 a bathroom over against this wall down here.

10 I go in there, look under the bed, look
11 in the closets, look in the room itself to see if I can
12 locate anybody.

13 Q. Why do you do that?

14 A. It was basically for my protection, as well as I
15 am there for a welfare check. I am trying to locate if
16 anybody was there.

17 Q. You wanted to make sure there wasn't somebody
18 hiding in there or something?

19 A. Yes.

20 Q. Or somebody located there?

21 A. Yes.

22 Q. Did you go through that entire building doing the
23 protective sweep?

24 A. I went into the main living quarter area, and like
25 I said, I believe it was a garage when I first pulled up.

1 There is a garage on the back half of this building here. I
2 opened that door and looked inside, and I did not see
3 anybody, and I exited that building.

4 Q. After exiting that building, where did you go?

5 A. I came back out through this door, and I followed
6 the sidewalk back over to the main house.

7 Q. Let me show you what is marked as Exhibit No.
8 2252.

9 Do you recognize what is depicted in
10 that?

11 A. Yes, sir.

12 Q. What is it?

13 A. That is looking towards the north. It is the
14 south side of the main house. And this sidewalk is the one
15 that adjoins down here to the outbuilding.

16 Q. So this house is configured with the front door on
17 the west side of the house?

18 A. Yes, sir.

19 Q. And then we are on the side of the house, and this
20 is the south side of the house?

21 A. Yes, sir.

22 Q. Right. Okay. And when you went across this
23 walkway and up to this south side of the house, what did you
24 do?

25 A. I followed the sidewalk up to this door, and

1 again, I knocked on that door. When no one responded, I
2 checked and it was unlocked. I actually was able to open the
3 door.

4 Q. Okay. And what about the dogs?

5 A. The dogs were standing over here. When I came up
6 here, when I came through this archway, they were still
7 barking. I don't remember if they were standing here at this
8 point, but as I approached over here and after I knocked on
9 the door, for sure I remember they were standing at the door
10 barking at me.

11 Q. Did you enter the residence at that point?

12 A. No, sir.

13 Q. But you checked that door right there?

14 A. Yes, sir.

15 Q. I saw you move your hand up and down. What kind
16 of a door was it there?

17 A. I don't remember if it was -- how you manipulated
18 the door handle. That was just my gesture for checking to
19 see if it was unlocked.

20 Q. It had some kind of a handle, and you remember it
21 being unlocked?

22 A. Yes, sir.

23 Q. So after checking that door -- but you didn't
24 enter?

25 A. No, sir.

1 Q. Where did you go?

2 A. I followed the sidewalk down this path here, along
3 the edge of the house, and I was looking in the windows that
4 I could actually see inside of.

5 Q. So you walked along the south side of the house
6 there?

7 A. Yes, sir.

8 Q. Okay. I don't seem to be able to find a
9 photograph of the south side of the house.

10 Going along the south side of the house,
11 were you looking in windows there?

12 A. Yes, sir, the windows that I could see in. They
13 had some of those glass privacy blocks in some of them, which
14 I believe is possibly a bathroom or what have you, and I was
15 not able to look in those. But as I came around towards the
16 back of the house, I do remember at the back corner, which
17 would be the southeast corner of the house, I remember there
18 possibly being a master bedroom, is what it looked like when
19 I looked inside those windows that were in the back corner of
20 the house.

21 Q. And let me show you what has been admitted into
22 evidence as Exhibit 2258.

23 Do you recognize what is depicted in that
24 exhibit?

25 A. Yes, sir. I believe that is the back corner of

1 the house that I was referring to. There is a walkway that I
2 took that came down through here, and this is the back
3 covered porch area, and this portion of the house is facing
4 to the east.

5 Q. And you see those doors there. Did you check and
6 look in those -- actually, they are windowed doors; right?

7 A. Yes, sir.

8 Q. Were you able to look inside there?

9 A. I don't remember if I looked inside these windows
10 here, or these doors here. I believe there is another window
11 over here. I did look inside this room, and that is how I
12 was able to determine it was a master bedroom or bedroom of
13 some type, and I didn't see anything suspicious in this room.

14 Q. Do you remember checking those doors right there?

15 A. I don't remember.

16 Q. And so you are there at the southeast corner of
17 the house. Now what is located to the east of the residence?

18 A. This, of course, is the backyard, and it extends
19 to a fence line, and beyond the fence line, I believe, is
20 just ranch land. It was just open vacant land.

21 Q. Open range land off to the east of the residence?

22 A. Off to the east, yes.

23 Q. So did you proceed around the house?

24 A. Yes, sir. I continued down this way, still
25 checking in the windows, the windows that I could see inside,

1 and when I came to this corner over here, there was another
2 window over here.

3 Q. Let me show you what is admitted into evidence as
4 Exhibit 2259.

5 Do you recognize what is depicted in that
6 exhibit?

7 A. Yes. This is the east -- the northeast corner of
8 the house, and I approached this window here, and when I
9 looked inside, that's when I observed the body.

10 Q. And tell us, you were using your flashlight at
11 this point?

12 A. Yes. I was using my flashlight to shine inside
13 the windows, and also to make sure I wasn't tripping over
14 anything that was in the area.

15 Q. So it was completely dark at this point?

16 A. I believe it was dark enough where I was not
17 comfortable walking around without my flashlight.

18 Q. And you looked in the back window there and
19 observed a body. What could you see about the body that you
20 observed?

21 A. When I looked in this window, I saw what appeared
22 to be a white female was lying -- what I call lengthwise --
23 this direction, with her head towards the inside of the
24 interior of the house and her legs closest towards the
25 window. The room was in disarray. Book shelves were knocked

1 down. Things were kind of -- the furniture was all kind of
2 moved around inside the room there. And I saw a red
3 substance, which I believed to be blood, which was also
4 around the head of the female subject lying there. And I
5 believe this was -- I believed at that time that this was
6 possibly a homicide scene.

7 Q. What made you think at that point in time that you
8 thought it was a homicide scene?

9 A. I can't really say, other than the fact that it
10 just looked very suspicious, looked very different. I have
11 been on dead body scenes before. There was just something
12 different about this one that I can't describe.

13 Q. The disarray in the room, that kind of thing?

14 A. Yes.

15 Q. Anything about the body that you could see besides
16 the pool of blood around it at that point in time?

17 A. I believe the female subject was wearing shorts
18 and maybe some sort of a tanktop-type of a shirt. And like I
19 said, I believe there was possibly a head wound there, but
20 there was blood throughout the area.

21 Q. Did you proceed around the house any further at
22 that point?

23 A. No, sir. After I observed that, I retraced my
24 steps all the way back around the house, went back down to
25 the sidewalk, went through the archway, went back down to my

1 vehicle. When I arrived at my vehicle, I heard that they
2 were checking my welfare, dispatch was. What we call a Code
3 500. They want to see if you are okay.

4 Before I could respond to them on the
5 radio, I heard Sergeant Acton requesting from dispatch where
6 my location was, and that she was going to be in route.
7 After she cleared the radio, I advised I was Code 4, which
8 was I was okay, and I got on the cell phone and contacted
9 Sergeant Acton and requested her to assist me with this
10 scene.

11 Q. Did Sergeant Acton come out and respond to the
12 scene?

13 A. Yes.

14 Q. And where were you located while you were
15 contacting Sergeant Acton then?

16 A. I was in my patrol vehicle. I was sitting in the
17 driver's seat of my patrol vehicle.

18 Q. So you were out front of the house where you had
19 showed us before; is that correct?

20 A. Yes, sir.

21 Q. And were you -- you are seated inside the vehicle?

22 A. I was seated in the driver's side of the vehicle,
23 yes.

24 Q. And approximately how long was it before Sergeant
25 Acton arrived?

1 A. Approximately 20 minutes.

2 Q. Seemed like a long time?

3 A. It was a very long time.

4 Q. Were you kind of nervous at that point?

5 A. Yes. After I contacted her, when I got off the
6 phone with her, she told me to notify Sergeant Howard, and
7 she believed that Deputy Boan were also at the Prescott
8 office, and she wanted me to call them and have them respond
9 to the scene, as well.

10 Q. Did you do that?

11 A. Yes. After I got done speaking with Sergeant
12 Acton, I called them and spoke to them at the Prescott
13 office. And then I took up a location that was on the
14 property still, but it was in the southwest corner of the
15 property, and I was able to view the front door, the front of
16 this house here, and also the front of the outbuilding, as
17 well as the archway and the sidewalk.

18 Q. So you moved away from your patrol vehicle?

19 A. Yes.

20 Q. And went to the southwest corner of the property?

21 A. Yes, sir.

22 Q. So that you would have a good field of vision on
23 both buildings?

24 A. As good as I could have being a single person out
25 there, yes.

1 Q. And awaited Sergeant Acton's arrival?

2 A. Yes, sir.

3 Q. When Sergeant Acton arrived, what occurred at that
4 point in time?

5 A. When Sergeant Acton arrived, she pulled up to the
6 scene, and I met her at the road and advised her of the
7 situation, what I had, roughly where the body was located in
8 the house. And she told me at that point, we are going to
9 wait until we had some other deputies arrive before we did
10 anything further.

11 Q. Wait for further backup?

12 A. Correct.

13 Q. So approximately how long did you wait there then
14 at that point?

15 A. Can I refresh my recollection on that by checking
16 the radio log?

17 Q. Well, why don't you just tell us approximately
18 what your recollection is.

19 A. I don't remember.

20 Q. Okay. But you waited a little while for the other
21 deputies to arrive?

22 A. Yes.

23 Q. Did you do anything while waiting there for their
24 arrival?

25 A. We just kept our eye on the house to see if

1 anything else was moving around, see if we saw anything
2 additional to what I described to Sergeant Acton.

3 Q. Okay. After these other deputies arrived -- and
4 who were they, by the way?

5 A. Sergeant Howard and Deputy Boan, Deputy Joy, and
6 Deputy Schilling.

7 Q. So Sergeant Mark Howard, Deputy Matt Boan?

8 A. Mark Boan.

9 Q. Mark Boan, right, and Deputy Scott Joy, and Deputy
10 Chad Schilling?

11 A. Yes, sir.

12 Q. How many cars arrived?

13 A. Mine was in the driveway. That is the -- and
14 Sergeant Acton's, Sergeant Howard's. I believe there was
15 five vehicles there.

16 Q. Five vehicles and six deputies?

17 A. Yes.

18 Q. Was Schilling with Joy?

19 A. Yes. He was on FTO at the time, and they were
20 riding in a two-man vehicle.

21 Q. FTO, what does that mean?

22 A. Field training.

23 Q. Deputy Schilling was undergoing field training
24 with Deputy Joy?

25 A. That is correct.

1 Q. So all of these deputies arrived. Had you put up
2 any crime scene tape or anything like that yet?

3 A. No.

4 Q. When did that happen?

5 A. I don't know.

6 Q. Okay. So you had five cars there and six
7 deputies, and what occurred next?

8 A. I briefed, again, Sergeant Howard, and I believe
9 Sergeant Acton was present, why we were all there, what was
10 going on, and we made a determination to go ahead and to
11 enter the house. And I advised them that that side door off
12 the side yard to the south was unlocked. So we determined
13 that is where we were going to make our point of entry into
14 the main house.

15 Q. Did you do anything before making your point of
16 entry at the main house?

17 A. Did I do anything?

18 Q. Or did any of the other deputies?

19 A. Prior to -- prior to the other deputies arriving,
20 there was a white vehicle that pulled up and began to pull
21 into the driveway and was stopped by Sergeant Acton.

22 Q. And do you know who was in that vehicle?

23 A. He was later identified by his Arizona driver's
24 license to be James Knapp.

25 Q. Approximately what time did Mr. Knapp arrive?

1 A. I don't recall, but it was after when Sergeant
2 Acton arrived.

3 Q. Okay. Do you remember when Sergeant Acton
4 arrived? Would you be able to refresh your recollection from
5 your radio log?

6 A. Yes.

7 Q. Would you please do that.

8 A. (Whereupon, the witness reviews a document.)

9 She arrived there --

10 Q. Don't read from your radio log, remember. Thank
11 you.

12 A. She arrived at 2110, which would be 9:10 p.m.

13 Q. And how long was it before this gentleman in the
14 pickup truck arrived, approximately?

15 A. Several minutes later.

16 Q. And when the guy in the pickup truck got there,
17 what occurred at that point?

18 A. As I said, Sergeant Acton stopped him while he was
19 starting into the driveway and told him that he could not go
20 onto the scene. He advised that he lived there. And at some
21 point, that's when I learned that he lived here on the
22 property, and later we determined that he lived in the
23 outbuilding here in the guesthouse area. But he wasn't told
24 why he couldn't go onto the scene, just that we were
25 investigating a possible crime, and he was not allowed on the

1 scene.

2 Q. So he indicated he lived in this guesthouse; is
3 that correct?

4 A. That's correct.

5 Q. So he wasn't allowed to go back into the
6 guesthouse?

7 A. No.

8 Q. And you and Sergeant Acton are still waiting then
9 for the other deputies to arrive at that point; right?

10 A. Yes, sir.

11 Q. What was done with the gentleman that arrived in
12 the pickup truck?

13 A. Sergeant Acton, of course, asked for his driver's
14 license, and that is how he identified himself with an
15 Arizona driver's license as James Knapp. She took that
16 information, and she checked his driving status and also a
17 warrants check.

18 Q. You were standing there while this was
19 accomplished?

20 A. I don't remember. I remember hearing it come over
21 the radio that she was doing this.

22 Q. Okay. And so after the other deputies arrived,
23 what happened with this Mr. Knapp?

24 A. Mr. Knapp was directed to back out of the driveway
25 and park along the roadside edge, and Deputy Boan was advised

1 to stand by with him.

2 Q. Okay. And then after the deputies arrived and
3 Mr. Knapp was asked to park out on the roadway, what
4 occurred?

5 A. Then we made a determination to go ahead and enter
6 the house through that side door that goes into the dining
7 room area.

8 Q. Was anything further done with the guesthouse at
9 that point in time before you entered on the side door?

10 A. Yes. We all -- when I say we all, myself,
11 Sergeant Acton, Sergeant Howard, Deputy Schilling and Joy, we
12 approached the house. We came up on the sidewalk here. And
13 Sergeant Acton wanted to do another protective sweep, because
14 we were not able to see what was going on back here behind
15 this house before everybody arrived.

16 So Sergeant Acton and I, again, went into
17 this building through this doorway, and did another
18 protective sweep and determined that there was nobody inside.

19 Q. Did you go into the garage area of that building
20 and sweep also?

21 A. I did not.

22 Q. Did Sergeant Acton?

23 A. I believe Sergeant Acton did.

24 Q. Was that building then cleared?

25 A. That building was then cleared.

1 Q. Then you went over to enter the main residence?

2 A. Yes.

3 Q. Now, we have Exhibit No. 2252 again up on the
4 overhead projector here; right?

5 A. Yes.

6 Q. Is that the door that you entered through?

7 A. Yes, sir. The door was right there.

8 Q. Okay. And tell us how that occurred.

9 A. We kind of lined up in single file, and I don't
10 remember the order. I believe Deputy Joy was first in line.
11 As I said, Sergeant Acton and I had gone over to this other
12 outbuilding, and then we had rejoined them and then entry was
13 made into the building there.

14 Q. Okay. And when you entered into the house there,
15 what was done?

16 A. We systematically went room by room.

17 Q. Were the dogs still in there?

18 A. I don't remember.

19 Q. You were focused other things at that point?

20 A. Yes. The dogs were in the house before we opened
21 that door, of course, because there was no way for them to
22 get out. But I don't remember what happened, where the dogs
23 went at that point. I don't remember.

24 Q. Did they get out of the house?

25 A. Again, I don't recall.

1 Q. And how many of you were there that were entering
2 the residence at that point?

3 A. There were five of us.

4 Q. So it was Joy and Acton and you and Schilling and
5 Howard?

6 A. That's correct.

7 Q. All right. Tell us how you proceeded, if you can
8 recall.

9 A. I can't recall who searched what room, but as we
10 went down the hallway, there is a hallway that runs through
11 the center the house going from east to west.

12 Q. Let me show you what is admitted into evidence as
13 Exhibit 2242.

14 Do you recognize that?

15 A. That is the hallway I was referring to. I don't
16 remember who checked these other rooms, but Sergeant Acton
17 and I had followed, like I said, I believe it was Deputy Joy.
18 Sergeant Acton and I followed down here, and we broke off to
19 this room on to the right at the far end of the hallway here,
20 which like I said, I believe it was a bedroom, and it was a
21 master bedroom. And we cleared that area, and I believe
22 Deputy Joy stayed right here observing this room over here.

23 Q. And the doorway on the left there that you were
24 just pointing to, is that where the body had been located
25 when you looked through the windows?

1 A. Yes, sir.

2 Q. Okay. And these other rooms that you went -- that
3 you passed by going down the hall, did people go and check
4 those rooms as you were going down the hallway?

5 A. Yes, sir.

6 Q. You just don't remember who checked them?

7 A. No, sir.

8 Q. Let's -- before we get into that area of the
9 house, let's take a look at a couple of other pictures here.
10 Do you recall -- this is Exhibit 2243.

11 Do you recall seeing this particular area of the house?

12 A. Yes. I believe this area is the family room,
13 living room area.

14 Q. Okay. Is that how it appeared when you entered
15 that night?

16 A. I don't remember.

17 Q. Did you go look at that area before you went down
18 the hallway?

19 A. I don't remember who checked that area. I don't
20 remember who checked that area.

21 Q. Okay. Let me show you what's been admitted into
22 evidence as Exhibit 2244.

23 Do you recognize what is depicted in that
24 photograph?

25 A. Yes. I believe that is the kitchen area.

1 Q. Did you pass by that on your way to the hallway?

2 A. Yes, sir. The doors that we came in, or the door
3 that we came in, was right over in this area. This is the
4 dining room area, and I believe -- I can't make it out, but I
5 believe that is the front door.

6 Q. And then which way is the hallway from here?

7 A. The hallway is right over in this area here.

8 Q. So you turned right out of this photograph, so to
9 speak, and go down that hallway?

10 A. Yes, sir.

11 Q. Let's go back to the hallway. So there we have
12 the hallway depicted again; is that correct?

13 A. Yes, sir.

14 Q. And after -- you and Acton entered the master
15 bedroom; is that right?

16 A. Yes, sir.

17 Q. Did you clear that room?

18 A. Yes, sir, we did.

19 Q. And after entering the master bedroom and then
20 clearing it, what did you do?

21 A. We came back out into the main hallway.

22 Q. Right.

23 A. And I believe we all regrouped right here.

24 Q. Okay. Just outside of the last room to the left?

25 A. Yes, sir.

1 Q. Now it is time to do this.

2 THE COURT: You can bring the chair down over
3 here.

4 JUROR NO. 18: I am okay.

5 MR. BUTNER: I would like to focus that
6 better. Thank you.

7 Q. I will get over here. I will try to stay out of
8 the way as much as possible.

9 Deputy Taintor, you are standing outside
10 in the hallway there, you and the four other deputies; is
11 that correct?

12 A. Yes, sir.

13 Q. And what did you do at that point in time?

14 A. Scott Joy entered the room where the body was
15 located, and he cleared that room.

16 Q. All right. And you remained just outside at that
17 point?

18 A. Yes, sir.

19 Q. And let me show you then what has been marked and
20 admitted into evidence as Exhibit No. 2277.

21 And do you recognize what is depicted in
22 that exhibit?

23 A. Yes. That was the white female that I had seen
24 through that back window when I first approached the back
25 side of the house.

1 Q. Is that how her body was positioned when you saw
2 it?

3 A. Yes, sir.

4 Q. We see some feet in this photo right there. Do
5 you know whose feet those are?

6 A. I believe those are Deputy Joy's.

7 Q. He is the person that went in and cleared the
8 room?

9 A. Yes, sir.

10 Q. And did he remain in there for a little while?

11 A. Yes, sir.

12 Q. Okay. And you are just outside of the room; is
13 that correct?

14 A. That's correct.

15 Q. In fact, are you the person that took this
16 particular photograph?

17 A. I don't remember.

18 Q. Okay. But you got your camera there?

19 A. Yes, sir.

20 Q. You went out to your car and got your camera and
21 began taking photographs?

22 A. Yes, sir.

23 Q. If fact, did you also pass your camera to someone
24 else to take photographs?

25 A. Yes.

1 Q. Who did you give it to?

2 A. I gave it to Deputy Joy, who was already in the
3 room at the time.

4 Q. So did anybody check the body to see its status in
5 terms of whether she was living or dead?

6 A. Sergeant Acton, she checked to see if the subject
7 was alive.

8 Q. How did she do that?

9 A. She checked for respiration. I believe she also
10 checked for the pulse on the wrist.

11 Q. Did she wear gloves when she did this, to your
12 recollection?

13 A. Yes, she did.

14 Q. And let me show you what has been admitted into
15 evidence as Exhibit 2280.

16 Do you recognize what is depicted in
17 that?

18 A. Yes, sir.

19 Q. What is that?

20 A. That was the white female that we later determined
21 was Carol Kennedy.

22 Q. Is this a closer photo of the body?

23 A. Yes.

24 Q. And what is this item right here above her head
25 that I am pointing to?

1 A. That appears to be a phone line.

2 Q. No, I mean this.

3 A. The desk.

4 Q. Okay. Tell us about that, if you would, please.

5 A. The desk had blood and other organic material on
6 the corner, the left corner of the desk there. It also had,
7 you know, various things that you might find on an office
8 desk, papers and things of that sort.

9 Q. Okay. Excuse me. I will have to come back to the
10 corner photo of the desk. I haven't got that with me.

11 Let me show you what is admitted into
12 evidence as Exhibit No. 2282.

13 And what is depicted in that particular
14 photograph?

15 A. Again, that is a picture of Carol Kennedy, and the
16 location and position that we found her.

17 Q. What is this item right here that I am pointing
18 at?

19 A. That is a ladder.

20 Q. And in what position was it relative to the body.
21 Aside from the obvious part that you can see in the
22 photograph, it is going off at an angle; right?

23 A. Yes. The doorway is just out of the frame right
24 here, and the ladder is lying crossways in front of the door,
25 leaning against the door on this far wall over here.

1 Q. Okay. So it is propped against the door?

2 A. Yes, sir.

3 Q. Did you notice the angle of the steps on the
4 ladder?

5 A. No, sir, I did not.

6 Q. Okay. Let me show you what has been admitted into
7 evidence -- this item down here, do you recognize what that
8 is?

9 A. No, sir, I don't.

10 Q. Okay. You were -- did you enter the room while
11 the body was in there?

12 A. Yes, I did.

13 Q. And where did you go when you entered?

14 A. As I walked through this door, I had to step over
15 the body to make sure I wasn't disturbing any evidence, and I
16 walked around the body, like I said, out of frame, and I was
17 taking some additional pictures of, like, the desk, the
18 chair, some other places in the room that I felt should have
19 been photographed while we were there.

20 Q. Okay. Let me show you what has been admitted into
21 evidence as Exhibit 2283.

22 Do you recognize what is depicted in that
23 particular picture?

24 A. Yes. That's Carol Kennedy's legs.

25 Q. Is there blood on her right leg there?

1 A. Yes. That is what it appears to be.

2 Q. That is what these dark marks are along her right
3 leg?

4 A. Yes, I believe so.

5 Q. Going back to Exhibit No. 2282, this dark area
6 beneath her abdomen, did you determine what that was?

7 A. We believed it to be blood.

8 Q. And then where were her visible signs of injury?

9 A. The most visible sign of injury that we were able
10 to see without disturbing the body was to the left portion of
11 her head, right there.

12 Q. Did you see any injuries to her abdominal area?

13 A. I did not, no.

14 Q. And then let me show you what is marked as Exhibit
15 No. 2285.

16 What is depicted in that?

17 A. That's the interior door, and I believe that was
18 just to the left of that interior door towards the back of
19 the house. Again, they are showing a picture of the ladder
20 that was, as you said, propped against the door.

21 Q. What are these items right here depicted in the
22 photograph that I am pointing at?

23 A. These items here?

24 Q. Yes.

25 A. Those were totes that were stacked up against the

1 wall in the hallway.

2 Q. Plastic totes out in the hallway?

3 A. Yes, sir.

4 Q. Did you note the presence of any blood out there
5 in the hallway?

6 A. Yes, sir. I believe there is some photos that
7 indicate there was blood that was on those totes.

8 Q. So there was blood spatter out on the totes?

9 A. Yes, sir.

10 Q. And how about anywhere else out in the hallway?
11 Did you notice any blood located anyplace else in the
12 hallway?

13 A. Yes, sir. There was a light switch. I believe it
14 worked the hallway light, just across the hall and on this
15 far wall here, that had on the light switch there was what I
16 believed to be a speck of blood.

17 Q. And then what about this -- this is a little
18 section of wall right by the door; is that correct, on the
19 interior of the room?

20 A. Yes, sir. This section here?

21 Q. Right.

22 A. Yes, sir.

23 Q. Was there blood spatter on that section of wall?

24 A. Yes, sir. You can see where the blood had
25 actually struck the wall and actually run down that section

1 of the wall.

2 Q. And these items down here, it doesn't show up real
3 well on this overhead projector, but are these items of blood
4 spatter down in the lower section of the wall also?

5 A. Yes. I believe you can see them all the way down
6 through here. I believe the lowest one might be right about
7 there.

8 Q. Did you see any blood spatter at all located on
9 the ladder?

10 A. Not that I remember.

11 Q. Let me show you what has been marked as Exhibit
12 2287.

13 Do you recognize what is depicted in that
14 exhibit?

15 A. Yes. I believe that is a close-up view of what we
16 just saw, and that, again, shows blood on that section of
17 wall.

18 Q. Okay. Let me show you what has been marked as
19 Exhibit 2289.

20 Do you recognize what is depicted on
21 Exhibit 2289?

22 A. Yes, sir. Those were the plastic totes that we
23 were just talking about that were just outside that doorway
24 in the hall, and that indicates the blood was on all three of
25 those totes that are stacked there.

1 Q. And here is Exhibit 2290.

2 What is depicted in that photograph?

3 A. Again, these are -- it is a side view of these
4 totes that were in the hallway and the tile that is in the
5 hallway and the carpeting that was in that room, and it shows
6 blood on the tile as well as some additional blood that,
7 again, is on those totes.

8 Q. Let me show you what is marked and admitted into
9 evidence has Exhibit 2277.

10 What is depicted in that exhibit?

11 A. Again, that is a depiction of Carol Kennedy, and
12 her relation to the desk, the doorway, the hallway, and also
13 those totes.

14 Q. Is this the corner of the desk that you were
15 talking about?

16 A. Yes, sir.

17 Q. Was there blood located up on the upper corner of
18 the desk?

19 A. Yes, sir. You can see blood on the upper corner
20 right there.

21 Q. Was there blood running down the side of the desk
22 underneath the level top surface of it?

23 A. Yes, sir. You can see where the blood was
24 actually running down right here, along the edge of the desk.

25 Q. Okay. So after discovering the body like

1 this -- oh, one other photograph. Let me show you what is
2 marked as Exhibit 2291.

3 Do you recognize what is depicted in that
4 photograph?

5 A. Yes, sir.

6 Q. What is that?

7 A. That is the phone that we located that was on the
8 floor in that room where Carol was found.

9 Q. After discovering the scene like this, what did
10 you do?

11 A. Well, we believed it to be highly suspicious and
12 possibly a homicide scene, and we believed that we needed to
13 secure not only the scene, but also determine where certain
14 things were in the house, and the way certain things were in
15 the house in reference to -- Sergeant Kennedy advised me to
16 go ahead and start checking the doors inside the house to see
17 what was locked, what was unlocked.

18 Q. So did you begin engaging in that process?

19 A. Yes. Myself and Deputy Schilling began doing
20 that.

21 Q. Okay. Let's, if we can, change and go to the
22 other manner of projection.

23 One last photo at this angle. Sorry.

24 THE COURT: Mr. Sears.

25 (Whereupon, a discussion was held off the record.)

1 THE COURT: I received a question from the
2 jury. With regard to the particular question asked, the
3 lawyers assure me that that will be covered with later
4 witnesses. I am not going to ask the question right now,
5 because it is going to go to a different witness.

6 MR. BUTNER: I have one other photograph I
7 would like to show you, and this is marked as Exhibit 2313.

8 Is there any objection to the admission
9 of 2313?

10 MR. SEARS: No.

11 THE COURT: 2313 is admitted.

12 BY MR. BUTNER:

13 Q. Let me show you what is marked as Exhibit 2313.

14 Do you recognize what is depicted in this
15 particular exhibit?

16 A. Yes.

17 Q. What is it?

18 A. That is a better depiction of Carol's right leg
19 that showed the blood on that right leg, her calf and her
20 thigh.

21 Q. Are those the running shoes that she was wearing
22 at the time that you discovered her body?

23 A. Yes.

24 Q. Do you see this pattern on the bottom of the
25 running shoes?

1 A. Yes, sir.

2 Q. How would you describe that?

3 A. I would describe it as a typical running shoe type
4 pattern.

5 Q. Do you see these three things right here?

6 A. They appear to be diamond shape.

7 Q. We will come back to that. You saw her wearing
8 those running shoes at the time you discovered her body; is
9 that correct?

10 A. That's correct.

11 Q. Okay. Now we can go to the other area. Thank
12 you.

13 Okay. Let's go back to the
14 outside -- let's go back to the outside of the house now.

15 You indicated that after discovering the
16 body in the back bedroom that you then went outside to
17 perform additional duties as part of this investigation; is
18 that correct?

19 A. Yes, sir.

20 Q. What were the duties that you performed?

21 A. We became aware that there was some additional
22 buildings on the property.

23 Q. Let me show you what has been admitted into
24 evidence as Exhibit 2259.

25 Do you recognize what is depicted in that

1 exhibit?

2 A. Yes. Again, that is the northeast corner of the
3 house, and it shows the yard off to that direction of the
4 north, and also the east part of the yard.

5 Q. Okay. And what is that structure located out
6 further to the north there?

7 A. This structure here?

8 Q. That's correct.

9 A. This structure here appeared to be possibly a barn
10 or an additional carport-garage type of area.

11 Q. Did you or one of the other deputies check that
12 area?

13 A. Yes. I was one of the deputies that checked that.

14 Q. What were you checking for?

15 A. We were again just checking to see if we could
16 locate anybody. Do another protective sweep of this area as
17 well.

18 Q. What about that walled area off to the side there?
19 That would be off to the east; right?

20 A. Yes. This is off to the east, and it adjoins a
21 fence that runs all along the back of these properties.
22 Again, this is vacant land over here. But this walled area
23 appeared to be protecting a garden area of some type.

24 Q. And you went out and checked that area also?

25 A. Yes, sir.

1 Q. Let's me show you what has been admitted into
2 evidence has Exhibit No. 2260.

3 Do you recognize what is depicted in that
4 exhibit?

5 A. Yes. This is the north side of the house. Again,
6 this is the walkway along the edge of the house, and this is
7 the garage area right here that is just to the north of the
8 main living house area.

9 Q. Did you check the doors and so forth on that side
10 of the house?

11 A. These doors were checked.

12 Q. Let me show you what has been admitted into
13 evidence as Exhibit 2262.

14 Do you recognize that?

15 A. Yes. I believe that is a closer view of what we
16 were just looking at.

17 Q. All right. And was there a north door to the room
18 in which the victim was located?

19 A. Yes. Without seeing the entire side, I believe
20 this was the door where -- that led to the room where the
21 victim was found.

22 Q. And did you go outside and check that door?

23 A. We were outside this area. I did not check this
24 door here.

25 Q. Okay.

1 A. Deputy Joy was in there, inside at the time, when
2 we were tasked with the job of checking these doors to see
3 which exterior doors were locked or unlocked. And I asked
4 Deputy Joy if that door was unlocked or locked.

5 Q. You didn't check that door specifically. Did you
6 check other doors?

7 A. Yes. As I said, Deputy Schilling and I went
8 through the house, and we were checking these doors.

9 Q. And you just pointed to another door.

10 A. This door here was another bedroom door.

11 Q. Did you check that one?

12 A. Yes.

13 Q. And what was the status of that door?

14 A. I can't recollect at this time.

15 Q. Did you have specific notes that you were taking
16 while were you checking these doors?

17 A. Yes, sir, I do.

18 Q. Let me show you what has been marked as Exhibit
19 263.

20 THE COURT: You may approach.

21 MR. BUTNER: Thank you.

22 Q. Do you recognize what is -- what that is?

23 A. Yes, sir. This is a copy of my handwritten notes
24 that I took while we were at the scene.

25 Q. Did you bring your originals with you today, in

1 fact?

2 A. Yes, sir, I did.

3 Q. You checked them out of evidence down at the
4 Sheriff's office?

5 A. Yes, sir.

6 MR. BUTNER: I would move for the admission of
7 Exhibit 263 at this time.

8 MR. SEARS: Your Honor, I believe there are
9 writings on this exhibit that don't relate to the testimony
10 so far. I can either take the witness on voir dire on
11 foundation for those, or we can perhaps agree that a portion
12 of this exhibit could be redacted quickly, so that only the
13 portion on the upper left side, Mr. Butner, that relates to
14 what he just told us about would be in this exhibit. They
15 could be used to refresh his testimony and not published.

16 MR. BUTNER: We can go ahead and redact this.

17 MR. SEARS: Okay.

18 MR. BUTNER: At the break we will take care of
19 that.

20 THE COURT: Any objection at this point to 263
21 being used, but not with publishing until the redaction is
22 done?

23 MR. SEARS: I do. I have some foundation
24 objections that probably require some voir dire, too. If
25 they are not going to offer those now, I could hold those

1 until they bring the document back.

2 MR. BUTNER: I will ask some further
3 foundation questions about this.

4 THE COURT: Go ahead.

5 BY MR. BUTNER:

6 Q. In terms of your notes that you prepared, tell us
7 what you did in regard to these notes. What were you doing?

8 A. As I said, Deputy Schilling and I were tasked with
9 attempting to find out which doors were locked or unlocked,
10 the exterior doors of this residence.

11 Q. And how did you do that?

12 A. We went from room to room, and Deputy Schilling
13 was actually checking to see if the dead bolt was locked out
14 manipulating the handles. He actually had gone in there and
15 actually looked to see if the dead bolt had been closed or
16 not, and he advised me whether it was locked or unlocked, and
17 then I wrote them down.

18 Q. Were you inside the house when were you doing this
19 or outside the house?

20 A. We were inside. I particularly remember being in
21 this room while we were checking this, and I believe that is
22 how we checked the remainder of the rooms, was the same way.
23 I do remember being in this room while we were checking this
24 particular door. This was a bedroom door.

25 Q. And then you made notes as you moved along while

1 you were checking that?

2 A. Yes.

3 Q. Then did you go to the next door over?

4 A. I am not exactly sure of the order that we
5 actually checked each door.

6 Q. Let me show you what is admitted into evidence as
7 Exhibit 2263.

8 Do you recognize that particular door?

9 A. Yes.

10 Q. How would you describe that for us, please?

11 A. That was the doorway on the north side of the
12 building, of the house, and it came out to the garage area.
13 Inside here, this is the living room, family room area. Over
14 here you can see the other doors we initially made entry
15 through, and this is like the dining room area here, and over
16 here in this section is the kitchen.

17 Q. Let me show you what is admitted into evidence as
18 Exhibit 2264.

19 Does that help place things more in
20 reference with the garage and so forth?

21 A. Yes. This is a wider angle view of the same door
22 and as the steps came out and the pathway down to the garage.

23 Q. Going back to Exhibit No. 2263, what did you do in
24 connection with that door? Did you check it?

25 A. Yes. We checked that door, yes.

1 Q. What was its status?

2 A. It was unlocked.

3 Q. And then after checking on all of these doors,
4 what did you do as part of this investigation?

5 A. After we completed checking these doors, I believe
6 Sergeant Acton was -- had contacted and advised our
7 lieutenant as well as notified CI of our findings.

8 Q. "CI," what does that mean?

9 A. That is our criminal investigations for the
10 Sheriff's office.

11 Q. Are they the detectives, so to speak?

12 A. Yes.

13 Q. Had the detectives arrived at the scene while you
14 were conducting your portion of the investigation?

15 A. At this particular time, they had not yet arrived.
16 Fire was also being called in, Central Yavapai Fire was also
17 being called in, and I believe also that Life Line had also
18 been called.

19 Q. And fire -- Central Yavapai Fire and Life Line
20 were called for what purpose?

21 A. We just wanted to make sure that our observations
22 were true and correct concerning Carol's body.

23 Q. So you called the EMTs to come out and respond?

24 A. Yes.

25 Q. And did they?

1 A. Yes, they did.

2 Q. And then after doing those things as part of the
3 investigation, did you engage in additional activities in
4 connection with this matter?

5 A. I believe that we were -- we started a crime scene
6 log, and I can't remember exactly when we actually started
7 it.

8 Q. When you say "we," are you a person that started a
9 crime scene log?

10 A. I started the crime scene log. When I say "we," I
11 am referring to Deputy Boan, because I gave it to him because
12 he was still outside with Mr. Knapp.

13 Q. So you started the crime scene log and then
14 transferred it over to Deputy Boan?

15 A. Yes.

16 Q. At some point in time did you and Sergeant Acton
17 conduct further investigation as part of this case?

18 A. Yes.

19 Q. What did you do?

20 A. When the detectives from our criminal
21 investigations unit, being Lieutenant Dave Rhodes and
22 Sergeant Luis Huante arrived, they advised us to go ahead and
23 start checking with the neighbors to see if the neighbors
24 could recollect or remember anything strange or suspicious
25 going on around the house.

1 Q. In checking with the neighbors -- I am going to
2 come back to that -- what neighbors did you contact?

3 A. I contacted the neighbors directly to the south on
4 the same side of the road, that would be the east side of the
5 road, south of Carol Kennedy's house.

6 Q. Would you move that microphone over in front of
7 you, please.

8 So you contacted neighbors to the south,
9 immediately to the south of the residence; is that correct?

10 A. That's correct.

11 Q. Did you find out what their names were?

12 A. I believe it was Ron and Judy Drake.

13 Q. You contacted Mr. and Mrs. Drake next door?

14 A. Yes.

15 Q. And did you ask them if they had noticed anything
16 of significance that night?

17 A. When I questioned them --

18 MR. SEARS: Objection. Calls for hearsay.

19 THE COURT: Overruled.

20 BY MR. BUTNER:

21 Q. It is basically a yes or no question. Did they
22 notice anything of significance that night?

23 A. Yes.

24 Q. Did you get a statement from either Mr. or
25 Mrs. Drake?

1 A. From Mr. Drake.

2 Q. We will come back to that. Mr. Drake is going to
3 be a witness.

4 Okay. After contacting Mr. Drake next
5 door, then what did you do?

6 A. We all reported back again to Lieutenant Rhodes
7 and Sergeant Huante and advised them of what we found.

8 Q. And at some point in time, were you dispatched to
9 a different location in connection with this investigation,
10 or maybe not dispatched, but asked to go elsewhere?

11 A. We were called back -- we were advised by dispatch
12 that Mr. Drake had called into the Sheriff's office and
13 requested to speak with me again.

14 Q. And you went back and spoke with Mr. Drake a
15 second time?

16 A. Yes, sir.

17 Q. And after doing that, did you do any further
18 duties in connection with this investigation?

19 A. Based on my interview with him the second time, we
20 learned that there was a trail that ran along the back of the
21 houses on the east side there of Bridle Path.

22 Q. A trail, you mean back in the open range land?

23 A. Yes, sir.

24 Q. And what did you do in connection with that trail
25 that ran behind the open range land?

1 A. Well, we -- when I say "we," Sergeant Acton and I
2 went back and started checking the maps for the closest
3 roads, because we believed there had to be a trailhead for
4 it, because there was no gate in the fence behind Carol
5 Kennedy's house or any of the other houses that I saw. We
6 were wondering how would you access that trailhead.

7 Q. Did you find some kind of a way to get into the
8 open range land from the Carol Kennedy residence?

9 A. Yes. After we looked at the map, we saw the
10 nearest road to the north was Glenshandra. And being new to
11 that area, I remember there was a gate at the end of the road
12 that led back onto that vacant open land.

13 Q. A trailhead?

14 A. A trailhead, yes.

15 THE COURT: Would it make sense if there is
16 going to be a discussion since we are a couple of minutes
17 before 12:00 to simply take the break at this point?

18 MR. BUTNER: Okay, Judge. That is fine.

19 THE COURT: Members of the jury, I am going to
20 take the lunch recess and we will resume at 1:15.

21 Let me remind you of the admonition once
22 again, and the caution is, you know, you see the pictures,
23 start thinking about the trails, you are shown these various
24 things in here, there is a temptation to start doing your own
25 research. Getting a map, looking at the map, going on the

1 Internet, looking at Yahoo satellite photos and things like
2 that. You are not allowed to do that. I am reminding you of
3 some of the specifics.

4 Don't do research of any kind,
5 investigations into the law, or investigations into the
6 facts, investigation into what is on the ground at the end of
7 Glenshandra, things like that. The information all has to
8 come from what happens here in court. I told you when you
9 were being selected, you would probably get tired of me
10 reminding you that all of your information has to come from
11 what is presented here in court.

12 Usually, I have you write out questions,
13 but is there a question?

14 JUROR NO. 14: I drew a hand sketch of the
15 area. Is that okay?

16 THE COURT: In terms of making your own notes,
17 you are welcome to make whatever notes you make based on what
18 happens here in court. Don't make notes about something that
19 you think about and research outside. Don't do any research
20 outside of what happens here in court.

21 But in terms of what you make notes of
22 from the descriptions given here, or your own little map
23 based on the map that you see here in the courtroom, that is
24 legit.

25 Stand in recess.

1 (Whereupon, the jury exits the courtroom.)

2 THE COURT: Another note for Sears. There is
3 another note for you, Mr. Sears. Answer is yes.

4 If you want to cover this while you are
5 still working, you are certainly welcome to.

6 Record can reflect that the jury has
7 left, but the defendant and all lawyers are still present.

8 MS. CHAPMAN: Your Honor, there are two issues
9 I think, and this probably involves the clerk, too.

10 The two issues are that there were
11 exhibit numbers marked. So for an example, Exhibit 857,
12 which is going to be offered this afternoon, was a CD of
13 about 100 photos. Now Mr. Butner is marking it. It was the
14 same exhibit of one photo that was previously a CD of a
15 hundred photos.

16 MR. BUTNER: I am not marking it with the same
17 exhibit number.

18 MS. CHAPMAN: You are not marking it 857?

19 MR. BUTNER: Do you see that number there?

20 MS. CHAPMAN: So now we have exhibits that we
21 don't have copies of with these exhibits numbers. They are
22 being offered with new exhibit numbers. They were previously
23 marked with old exhibit numbers in sets of a hundred. We
24 don't have copies of the exhibits that are being offered. We
25 can't refer to them or get access to them, because they were

1 marked in sets of a hundred, and now they are being marked
2 with a new number that we don't have.

3 MR. BUTNER: First of all, I don't know that
4 they were marked in sets of a hundred. Some of them were
5 marked in sets of 30 or 40.

6 MS. CHAPMAN: This particular disk.

7 MR. BUTNER: Let me finish.

8 THE COURT: The disk itself was marked, and
9 the disk itself contains photographs?

10 MR. BUTNER: All of these photos. And what I
11 have done is excerpted the specific photos that I felt were
12 appropriate for the case and given them -- on the back, I
13 write for reference purposes, so that they can find them
14 quickly, Exhibit 857. That is the exhibit number here. Disk
15 "H," 2 of 2. That would be in the disclosure. And then the
16 specific photograph number IMG5234.jpg. All of that on the
17 back of each one of these photographs, so that they can cut
18 to the chase, so to speak, on the disks that they have with
19 them.

20 I don't think I should put in the entire
21 disk of photographs. I can do that if necessary, but I
22 didn't think that would be a good idea, Judge.

23 THE COURT: But for purposes of their being
24 able to raise it on the computer reasonably quickly, can't
25 the reference to the exhibit number and then the photo that

1 is on there --

2 MR. BUTNER: I could sure do that every time.
3 It wouldn't be a problem. I thought I was doing that. That
4 is why I walk over here and show it to their clerk. I
5 thought that she was able to find that stuff.

6 MS. CHAPMAN: Your Honor, just by way of
7 example, what we would have to do with this photograph is
8 look through the hundred pictures on disk "H" to find this
9 particular photograph.

10 THE COURT: It isn't keyed in in some fashion
11 where you can click on that and bring up that single photo?

12 MS. CHAPMAN: No. Then we would have to be
13 looking through disks, and we didn't bring the 300 disks that
14 have been disclosed. We brought the exhibit numbers. The
15 point of pre-marking exhibits was for the State to determine
16 what they wanted to use. That is what we did, and now we
17 have this problem.

18 THE COURT: I don't see it as that major of a
19 problem, frankly.

20 MR. BUTNER: We will continue to make it clear
21 which disk and which photo I am going to before I get there.

22 THE COURT: Well, you have those already
23 marked. Why don't you -- I will let the clerk allow them to
24 have access to the numbering that you have on the back, so at
25 least at this point --

1 MR. BUTNER: I already did that, Judge.

2 MS. CHAPMAN: I guess what we would ask for
3 are copies of them. That is what we need are copies of the
4 particular exhibits, as opposed to having to sort through the
5 hundred photos. I think that would work -- in advance.

6 MR. BUTNER: Okay. I will do that.

7 THE COURT: All right. Do you need the
8 particular exhibits, or can you make copies based on --

9 MR. BUTNER: We know which ones they are.
10 Right? We know which ones they are. You have a list of
11 these and you can give them a copy of them.

12 MS. GRUBB: Jennifer and I are just talking
13 about that, and we are going to work that out so you can have
14 it ahead of time.

15 MR. BUTNER: Great.

16 THE COURT: The problem is resolved without
17 necessary Court intervention.

18 MR. BUTNER: I am going to leave these up
19 here, if that is okay.

20 THE COURT: And other issues that we need to
21 cover? You were looking at something else.

22 MR. BUTNER: The notes from Deputy Taintor.
23 He has some notes on there that when he contacted the Drakes,
24 and I think that is what Mr. Sears was talking about.

25 MR. SEARS: That was part of it. The phone

1 numbers. And then there was a note what I recall from our
2 defense interview of Deputy Taintor was that he didn't have
3 those notes. They had not been given to the County Attorney.
4 And there is a handwritten note says, "Put in by Taintor
5 1/14/09" at the top. I don't know whose handwriting that is.

6 MR. BUTNER: Okay. He must have added that.

7 MR. SEARS: That is the foundation I was
8 talking about. Are those his handwritten notes?

9 THE COURT: Do you want to discuss this among
10 yourselves and meet a little bit early?

11 MR. BUTNER: These notes aren't really that
12 important. You want to cross-examine him on them?

13 MR. SEARS: You go around door by door, and
14 you see from the notes he doesn't list every door. For
15 example, unless he is using the word "side door" for that
16 north door of the garage. There is another door -- there is
17 two doors that were locked. And if he did what he said he
18 did, which was start at the door they went in and work around
19 the house counter clockwise, on his note it looks like the
20 next door is unlocked, but I don't know what side door it is.

21 MR. BUTNER: I think I should probably put
22 that note in evidence.

23 MR. SEARS: You might want to ask him, before
24 you put him back on, what his methodology was and what door
25 was he talking about. There are more doors than he has

1 entries for.

2 THE COURT: If you want to make any redactions
3 to it, do it over the lunch hour, and do it before the jury
4 comes back in at ten after 1:00, and make any record that is
5 necessary.

6 MR. BUTNER: I will talk to him about it. I
7 don't want to mess with it. I don't think it is worth the
8 effort to put that into evidence. I will talk to him.

9 MR. SEARS: If he wanted to use those to
10 refresh himself, he can do that, but understand that I am
11 going to point out that those notes weren't discovered and
12 put in there for months. And "B," that there are more doors
13 than there are notations in his notes.

14 MR. BUTNER: Okay.

15 THE COURT: I want to make sure that any
16 redactions are done before we get the jury back in.

17 MR. SEARS: Right. Joe, if you do use that, I
18 mean, my idea of redacted would be just to cover everything
19 except for the notes relating to the doors; front door, back
20 door, so that little piece of it, because I think the rest of
21 it has a foundation problem.

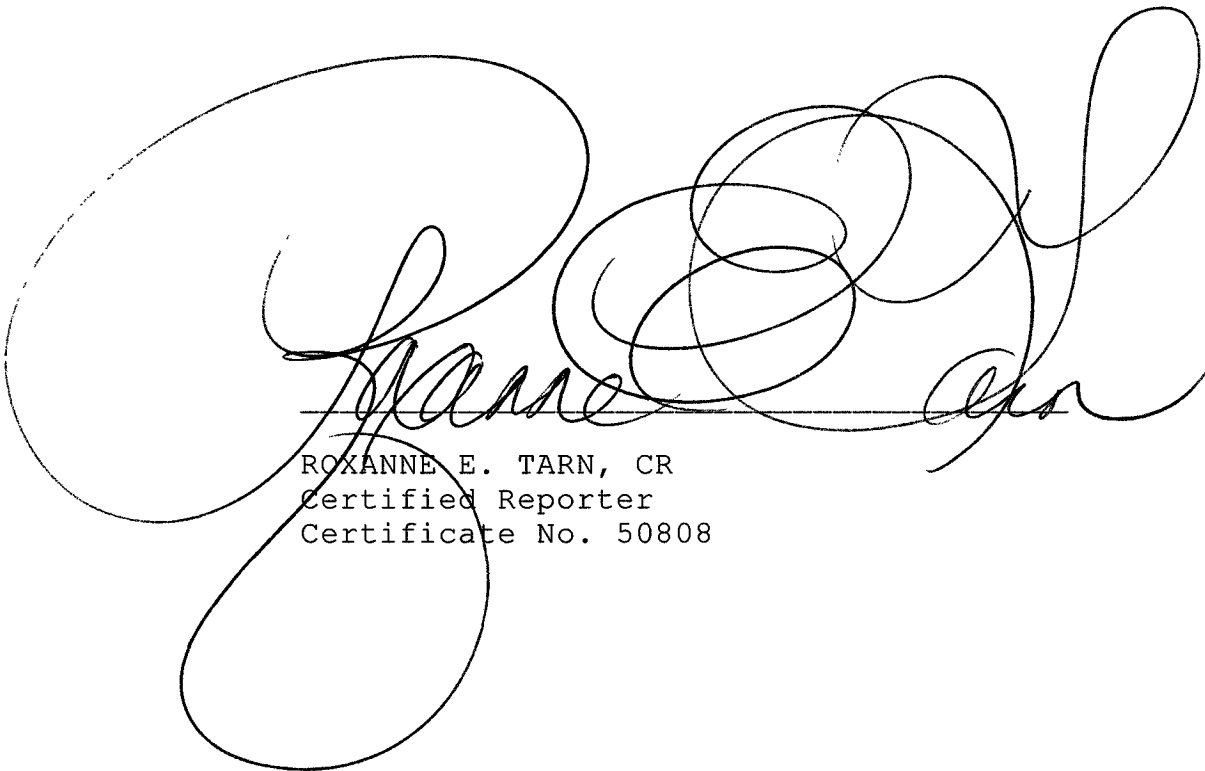
22 THE COURT: Stand in recess then until ten
23 after 1:00 for the lawyers.

24 (Whereupon, a recess was taken at 12:06 p.m.
25 to resume at 1:10 p.m. of the same day.)

C E R T I F I C A T E

I, ROXANNE E. TARN, CR, a Certified Reporter
in the State of Arizona, do hereby certify that the foregoing
pages 1 - 99 constitute a full, true, and accurate transcript
of the proceedings had in the foregoing matter, all done to
the best of my skill and ability.

SIGNED and dated this 8th day of July, 2010.



ROXANNE E. TARN, CR
Certified Reporter
Certificate No. 50808